



## FISCAL MEMORANDUM

### SB 1378 - HB 1416

April 26, 2022

**SUMMARY OF BILL AS AMENDED (018004, 018230):** Creates a Class A felony offense of aggravated human trafficking if the victim is under 13 years of age for the following criminal offenses: (1) involuntary labor servitude; (2) trafficking persons for forced labor or services; (3) trafficking for commercial sex act; (4) patronizing prostitution; or (5) promoting prostitution. Requires individuals convicted to serve 100 percent of any sentence imposed, undiminished by any sentence credits. Requires such sentence to be no less than a sentence imposed for a Range II offender. Requires lifelong community supervision for certain offenses committed on or after July 1, 2022.

Amendment 018230 adds aggravated human trafficking to the list of offenses subject to judicial forfeiture.

### FISCAL IMPACT OF BILL AS AMENDED:

#### NOT SIGNIFICANT

Assumptions for the bill as amended:

##### *Involuntary Labor Servitude*

- Based upon information provided by the Department of Correction (DOC), there has been zero admissions in each of the last 10 years for the Class B felony offense under Tenn. Code Ann. § 39-13-307 for involuntary servitude.
- There will not be a sufficient number of Class A felony prosecutions for state government to experience any significant increase in revenue or expenditures.

##### *Trafficking for Forced Labor or Services*

- Pursuant to Tenn. Code Ann. § 39-13-308, trafficking for forced labor or services is a Class C felony offense.
- The proposed legislation enhances the penalty to a Class A felony if the victim is under 13 years of age.
- Based upon information provided by the DOC, there has been 0.1 admissions in each of the last 10 years for the Class C felony offense under Tenn. Code Ann. § 39-13-308 for trafficking for forced labor or services.
- There will not be a sufficient number of Class A felony prosecutions for state government to experience any significant increase in revenue or expenditures.

#### *Trafficking a Person for a Commercial Sex Act*

- Pursuant to Tenn. Code Ann. § 39-13-309, trafficking for a commercial sex act is a Class B felony offense.
- The penalty is enhanced to a Class A felony if the victim is under 15 years of age or where the offense occurs on the grounds or facilities or within 1,000 feet of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park.
- Based upon information provided by the DOC, there has been 2.2 admissions in each of the last 10 years for the Class B felony offense under Tenn. Code Ann. § 39-13-309 for trafficking for a commercial sex act.
- It is reasonably assumed that 10 percent or 0.22 (2.2 x 10.0%) of such admissions will be classified as a Class A felony under the proposed legislation.
- Pursuant to Tenn. Code Ann. § 40-35-501(aa)(2)(C), a person who commits trafficking for a commercial sex act, on or after July 1, 2021 is required to serve 100 percent of the sentence imposed by the court undiminished by any sentence reduction credits.
- The average sentence for trafficking for a commercial sex act is 10 years.
- The average time served for a Class A felony offense is 13.79 years.
- This analysis estimates the highest cost for admissions in the next 10 years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding 10 years in length surpass the window of this analysis.

#### *Promoting Prostitution*

- Pursuant to Tenn. Code Ann. § 39-13-515, promoting prostitution is punishable as trafficking for a commercial sex act under Tenn. Code Ann. § 39-13-309 if the person being promoted is less than 18 years old. Trafficking for a commercial sex act is a Class B felony offense.
- It is reasonably assumed any increase in incarceration costs associated with promoting prostitution for a person less than 18 years old has been accounted for within the increase in expenditures for trafficking for a commercial sex act and surpasses the 10-year window of this fiscal analysis.
- Pursuant to Tenn. Code Ann. § 39-13-515, promoting prostitution is a Class D felony offense if the victim has an intellectual disability.
- Based upon information provided by the DOC, there has been zero admissions in each of the last 10 years for the Class D felony offense under Tenn. Code Ann. § 39-13-515 for promoting prostitution where the victim has an intellectual disability.
- There will not be a sufficient number of Class A felony prosecutions for state government to experience any significant increase in revenue or expenditures.

#### *Patronizing Prostitution*

- Pursuant to Tenn. Code Ann. § 39-13-514(b)(3)(A), patronizing prostitution is punishable as trafficking for a commercial sex act when the victim is younger than 18 years of age. Trafficking for commercial sex is a Class B felony.
- The proposed legislation enhances the penalty to a Class A felony offense if the victim is under 13 years of age.

- Based on information provided by the DOC, there has been zero admissions in each of the last 10 years for the Class B felony offense under Tenn. Code Ann. § 39-13-514 for patronizing prostitution of a minor.
- There will not be a sufficient number of Class A felony prosecutions for state government to experience any significant increase in revenue or expenditures.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.

*Aggravated Human Trafficking*

- Adding aggravated human trafficking to the list of offenses subject to judicial forfeiture will not significantly impact state or local revenue.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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